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HOUSE BILL 2033

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Conway, B. Chandler, Lisk, Clements, McMorris, Wood, McIntire, Linville, Kessler, Grant, G. Chandler, Mulliken, Kenney, Hurst and Lantz

Read first time 02/15/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the entrance criteria for retrospective rating  
2 groups; amending RCW 51.16.035; adding a new chapter to Title 51 RCW;  
3 and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the retrospective  
6 rating plan provided for in RCW 51.16.035 has proven to be highly  
7 effective both in terms of improved workplace safety and injured worker  
8 outcomes. As a result, the number of industrial insurance claims of  
9 many employers participating in the retrospective rating plan have been  
10 reduced through sound risk management strategies and more efficient  
11 claims management.

12 The legislature further finds that entrance criteria for the  
13 retrospective rating plan under RCW 51.16.035 should be clear and  
14 understandable to both the department and potential retrospective  
15 rating plan participants.

16 The legislature therefore declares that a new retrospective rating  
17 plan is needed in order to protect and preserve the integrity and  
18 welfare of the retrospective rating system.

1        NEW SECTION.     **Sec. 2.**     (1) The department shall offer a  
2 retrospective rating plan to insure the workers' compensation  
3 obligations of employers and groups of employers. The plan is to be  
4 made available to any employer or group of employers who:

5        (a) Voluntarily elects to participate in the plan; and

6        (b) Meets the requirements of this chapter and rules adopted by the  
7 department under subsection (2) of this section.

8        (2) The retrospective rating plan shall be consistent with  
9 recognized insurance principles and shall be administered according to  
10 rules adopted by the department. Rules adopted under this section  
11 shall encourage broad participation by qualified employers and sponsors  
12 of retrospective rating groups.

13        (3) Each retrospective rating group approved by the department  
14 under this chapter shall select a coverage period and may be renewed at  
15 the end of each coverage period. For the purposes of this section,  
16 "coverage period" means a twelve-month period provided by the  
17 department by rule.

18        NEW SECTION.     **Sec. 3.** Prior to allowing initial entrance into the  
19 state's retrospective rating plan, the department shall review each  
20 proposed retrospective rating group to ensure that the following  
21 criteria are met:

22        (1) The entity sponsoring the retrospective rating group must have  
23 been in existence for at least four years;

24        (2) The entity sponsoring the retrospective rating group must exist  
25 primarily for a purpose other than that of obtaining or offering  
26 insurance coverage or insurance related services;

27        (3) The entity sponsoring the retrospective rating group must have  
28 a written workplace safety, accident prevention, and claims management  
29 plan in place for the proposed retrospective rating group;

30        (4) All employers in the retrospective rating group must be members  
31 of the sponsoring entity;

32        (5) All employers in the retrospective rating group must have an  
33 industrial insurance account in good standing with the department;

34        (6) Fifty percent of the original employers in the retrospective  
35 rating group must have been members of the sponsoring entity for one  
36 year prior to the group's entrance into the retrospective rating plan;

1 (7) The retrospective rating group must be composed of employers  
2 who are substantially similar considering the services or activities  
3 performed by the employees of those employers;

4 (8) The initial premium level for the retrospective rating group  
5 must be at least one million five hundred thousand dollars and shall be  
6 based on the standard premium of the proposed group members' most  
7 current previous coverage period; and

8 (9) The formation and operation of the retrospective rating group  
9 must seek to substantially improve workplace safety, accident  
10 prevention, and claims management for the employers in the group.

11 NEW SECTION. **Sec. 4.** (1) Entities which sponsored retrospective  
12 rating groups prior to the effective date of this act, may not sponsor  
13 additional retrospective rating groups in a new business or industry  
14 category until the coverage period beginning January 1, 2003.

15 (2) For retrospective rating groups approved by the department on  
16 or after the effective date of this act, the sponsoring entity may not  
17 propose another retrospective rating group in a new business or  
18 industry category until the minimum mandatory adjustment periods  
19 required by the department for the first two coverage periods of the  
20 last formed retrospective rating group are completed.

21 (3) Subsections (1) and (2) of this section do not prohibit a  
22 sponsoring entity from proposing to:

23 (a) Divide an existing retrospective rating group into two or more  
24 groups provided that the proposed new groups fall within the same  
25 business or industry category as the group that is proposed to be  
26 divided; or

27 (b) Merge existing retrospective rating groups into one business or  
28 industry category provided that the proposed merged groups fall within  
29 the same business or industry category as the groups that are proposed  
30 to be merged.

31 (4) Under no circumstances may a sponsoring entity propose  
32 retrospective rating groups in multiple business or industry categories  
33 in the same application to the department.

34 (5) An insurer, insurance broker, agent, or solicitor may not:

35 (a) Participate in the formation of a retrospective rating group;  
36 or

37 (b) Sponsor a retrospective rating group.

1        NEW SECTION.

2        **Sec. 5.**

3        (1) In order to ensure that all  
4 retrospective rating groups are made up of employers who are  
5 substantially similar, considering the services or activities performed  
6 by the employees of those employers, the sponsoring entity of a  
7 retrospective rating group shall select a single, broad industry or  
8 business category for each retrospective rating group. Once an  
9 industry or business category is selected, the department shall allow  
10 all risk classifications reasonably related to that business or  
11 industry category into that retrospective rating group.

12        (2) The following broad industry and business categories shall be  
13 used by the sponsoring entity and the department in establishing  
14 retrospective rating groups:

15        (a) Agriculture and related services;

16        (b) Automotive, truck and boat manufacturing, sales, repair, and  
17 related services;

18        (c) Construction and related services;

19        (d) Distillation, chemical production, food, and related services;

20        (e) Facilities or property management, maintenance, and related  
21 services;

22        (f) Government, utilities, schools, health care, and related  
23 services;

24        (g) Health care, pharmaceutical, laboratories, and related  
25 services;

26        (h) Logging, wood products manufacturing, and related services;

27        (i) Manufacturing, processing, mining, quarrying, and related  
28 services;

29        (j) Retail stores, wholesale stores, professional services, and  
30 related services;

31        (k) Temporary help and related services; and

32        (l) Transportation, recycling, warehousing, facility maintenance,  
33 and related services.

34        (3) The industry and business categories in subsection (2) of this  
35 section are not exclusive. In response to significant changes in  
36 marketplace demographics or the discovery of unique business or  
37 industry categories, the department may, by rule, include additional  
38 broad industry or business category selections. The department may, by  
39 rule, remove an industry covered within an industry or business  
category in the event that the business or industry is no longer found  
within this state.

1 (4) Given the broad nature of the industry and business categories  
2 in subsection (2) of this section, the risk classification or  
3 classifications assigned to an individual employer may appropriately  
4 fall into multiple business or industry categories.

5 (5) In order to simplify administration and keep the administrative  
6 costs associated with devising a different classification system for a  
7 retrospective rating plan to a minimum, the state's retrospective  
8 rating plan shall follow the same classification procedure established  
9 by the department to assign workers' compensation insurance  
10 classifications to an employer.

11 (6) Employers who have been a member of an existing, approved  
12 retrospective rating group prior to the effective date of this act, may  
13 continue in that group even if they are not substantially similar to  
14 the industry or business category selected pursuant to subsection (1)  
15 of this section. However, new employers proposed for addition to a  
16 retrospective rating group on or after the effective date of this act  
17 must fall within the selected industry or business category.

18 NEW SECTION. **Sec. 6.** (1) Any retrospective rating group required  
19 to pay additional net premium assessments in two consecutive coverage  
20 periods shall be immediately placed on probationary status. Once a  
21 group is placed on probationary status, the department shall review the  
22 group's workplace safety, accident prevention, and claims management  
23 plan and make advisory recommendations for corrective steps that should  
24 be taken to improve the group's performance.

25 (2) If the same retrospective rating group is required to pay an  
26 additional net premium assessment in the third consecutive coverage  
27 period, that group shall be denied future enrollment in the state's  
28 retrospective rating plan. In addition, the sponsoring entity of the  
29 failed group may not sponsor another group in the same business or  
30 industry category for five coverage periods from the ending date of the  
31 failed group's last coverage period.

32 NEW SECTION. **Sec. 7.** All retrospective rating groups approved by  
33 the department prior to the effective date of this act, under RCW  
34 51.16.035 as it existed prior to the effective date of this act, remain  
35 approved and, with the exception of section 3 of this act, are subject  
36 to the provisions of this chapter.

1       **Sec. 8.** RCW 51.16.035 and 1989 c 49 s 1 are each amended to read  
2 as follows:

3       (1) The department shall classify all occupations or industries in  
4 accordance with their degree of hazard and fix therefor basic rates of  
5 premium which shall be the lowest necessary to maintain actuarial  
6 solvency of the accident and medical aid funds in accordance with  
7 recognized insurance principles. The department shall formulate and  
8 adopt rules and regulations governing the method of premium calculation  
9 and collection and providing for a rating system consistent with  
10 recognized principles of workers' compensation insurance which shall be  
11 designed to stimulate and encourage accident prevention and to  
12 facilitate collection. The department may annually, or at such other  
13 times as it deems necessary to maintain solvency of the funds, readjust  
14 rates in accordance with the rating system to become effective on such  
15 dates as the department may designate.

16       (~~The department may insure the workers' compensation obligations  
17 of employers as a group if the following conditions are met:~~

18       ~~(1) All the employers in the group are members of an organization  
19 that has been in existence for at least two years;~~

20       ~~(2) The organization was formed for a purpose other than that of  
21 obtaining workers' compensation coverage;~~

22       ~~(3) The occupations or industries of the employers in the  
23 organization are substantially similar, taking into consideration the  
24 nature of the services being performed by workers of such employers;  
25 and~~

26       ~~(4) The formation and operation of the group program in the  
27 organization will substantially improve accident prevention and claim  
28 management for the employers in the group.))~~

29       (2) In providing (~~an employer group~~) a retrospective rating plan  
30 under (~~this~~) section 2 of this act, the department may consider (~~an~~  
31 ~~employer~~) each individual retrospective rating group as a single  
32 employing entity for purposes of dividends or premium discounts.

33       NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act constitute  
34 a new chapter in Title 51 RCW.

35       NEW SECTION. **Sec. 10.** If any provision of this act or its  
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3       NEW SECTION.   **Sec. 11.**   This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 immediately.

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